

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 144

H.P. 120

House of Representatives, January 14, 1997

An Act Regarding the Duties of Guardian Ad Litem.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JABAR of Waterville.
Cosponsored by Senator LaFOUNTAIN of York and
Representative WATSON of Farmingdale.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 19 MRSA §752-A, sub-§2**, as repealed and replaced by PL 1995, c. 405, §12, is amended by amending the first paragraph to read:

6
8 **2. Duties.** The guardian ad litem has both mandatory and optional duties. If, in order to perform the duties, the guardian needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem shall interview the child with or without another person present. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers. The guardian ad litem shall have face-to-face contact with the child within 7 days of appointment by the court and at least once every 3 months thereafter. The guardian ad litem shall make a written report of investigations, findings and recommendations every 6 months or as ordered by the court, with copies of the report to each party and the court.

22
24 **Sec. 2. 19 MRSA §752-A, sub-§3**, as amended by PL 1995, c. 405, §13, is further amended to read:

26 **3. Best interest of the child.** The guardian ad litem must be guided by the standard of the best interest of the child as set forth in section 752, subsection 5. A guardian ad litem shall make the wishes of the child known to the court if the child has expressed the child's wishes, regardless of the recommendation of the guardian ad litem. If the child and the child's guardian ad litem are not in agreement, the court shall evaluate the necessity for appointing special counsel for the child to serve as the child's legal advocate concerning the issues and during the proceedings as the court determines to be in the best interest of the child and shall appoint a legal advocate if the court determines that such an appointment is necessary.

40 **Sec. 3. 19-A MRSA §1507, sub-§3, ¶A**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

42
44 **3. Duties.** The guardian ad litem has both mandatory and optional duties.

46 A. A guardian ad litem shall:

48 (1) Interview the child with or without another person present; and

50

2 ~~(2) -- Have face to face contact with the child within 7~~
3 ~~days of appointment by the court and at least once~~
4 ~~every 3 months after appointment; and~~

5 (3) Make a written report of investigations, findings
6 and recommendations ~~every 6 months or~~ as ordered by the
7 court, with copies of the report to each party and the
8 court.

10 **Sec. 4. 19-A MRS §1507, sub-§4**, as enacted by PL 1995, c.
11 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

12 **4. Best interest of the child.** The guardian ad litem shall
13 use the standard of the best interest of the child as set forth
14 in section 1653, subsection 3. The guardian ad litem shall make
15 the wishes of the child known to the court if the child has
16 expressed them, regardless of the recommendation of the guardian
17 ad litem. ~~If the child and the child's guardian ad litem are not~~
18 ~~in agreement, the court shall evaluate the need for appointing~~
19 ~~special counsel for the child to serve as the child's legal~~
20 ~~advocate concerning the issues and during the proceedings as the~~
21 ~~court determines to be in the best interest of the child and~~
22 ~~shall appoint a legal advocate if the court determines that such~~
23 ~~an appointment is necessary.~~

24 **Sec. 5. Effective date.** Those sections of this Act that amend
25 the Maine Revised Statutes, Title 19-A, section 1507, take effect
26 October 1, 1997.

30 **SUMMARY**

31 Current law requires that guardians ad litem have
32 face-to-face contact with the child within 7 days of appointment
33 by the court and at least once every 3 months thereafter. This
34 bill repeals that requirement. This bill also repeals the
35 requirement that guardians ad litem make written reports every 6
36 months. This bill also repeals the requirement that, if the
37 child and the child's guardian ad litem are not in agreement, the
38 court must evaluate the necessity for appointing special counsel
39 for the child.
40